ACT II OF 1092.

CHRISTIAN SUCCESSION ACT.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. This Act to constitute the law of Travancore in all cases of intestate succession among Indian Christians.
3. Succession to property of Marumakkathayam Christians and certain intestacies not affected.
4. (1) Power of Government to exempt from the operation of the whole or any part of this Act any individual or the members of any sect, race or tribe.
   (2) Power of Government to extend the operation of the whole or any part of this Act to any individual or the members of any sect, race or tribe.
   (3) Power to revoke any such order or orders of exemption or extension.
5. Interpretation-Clause.
   "will."
   "Streedhanom."
   "Son" "Daughter" and other words expressing relationship.
6. Interests and powers not acquired nor lost by marriage.
7. Law regulating succession to deceased person's immovable and movable property.
8. "Kindred" or "Consanguinity."
9. "Lineal consanguinity."
10. "Collateral consanguinity."
11. Mode of computing degrees of kindred.
12. Persons held for the purpose of succession to be similarly related to the deceased.
13. No distinction between self-acquisition and ancestral property or between man's property and woman's property.
14. As to what property deceased considered to have died intestate.

SECTIONS.

15. Devolution of such property.
16. Widow co-existing with deceased's children.
17. Widow co-existing with the intestate's father or mother or paternal grand-father or any lineal descendants of his father or such grandfather.
18. Other cases.
19. Right of widower and widow.
20. Mother with the intesate's descendants or his father.
21. Mother co existing with intestate's father's descendants.
22. Mother co-existing with intestate's graudfather or his descendants.
23. Mother co-existing with more distant kindred.
24. Widow or mother has only a life-interest terminable at death or re-marriage over any immovable property to which she may become entitled under Sections 16, 17, 21 and 22.
25. Order of succession.
26. The lineal descendants of a deceased heir are allowed to represent such heir.
27. Males to take equally among themselves and females to take equally among themselves.
28. The shares of sons in group (1) of Section 25.
Daughter's Streedhanom and its value.
Female heirs who were paid Streedhanom to be ordinarily left out of consideration.
29. Certain other female heirs to take only in the absence of male heirs in the respective groups.
30. Sections 24, 28 and 29 not applicable to certain classes of Roman Catholic and Protestant Christians.
31. Mode of distribution in the absence of the widow, mother or the kindred enumerated in Section 25.
32. Escheat.
33. Children's advancement not brought into hotch-pot.

ACT II OF 1092.

AN ACT, TO CONSOLIDATE AND AMEND THE RULES OF LAW APPLICABLE TO INTESTATE SUCCESSION AMONG INDIAN CHRISTIANS IN TRAVANCORE.

Passed by His Highness the Maha Raja of Travancore on the 21st December 1916 corresponding with the 7th Dhanu 1092, under Section 13 of Act V of 1073.

Preamble.

Whereas it is expedient to consolidate and amend the rules of law applicable to intestate succession among Indian Christians in Travancore: We are pleased to enact as follows:—

Short title.

1. This Act may be called "The Christian Succession Act".

Act II of 1092.—*Objects and Reasons.* "The law of intestate succession among the various sections of Indian Christians in Travancore is vague and unsettled. The High Court have been complaining about the unsatisfactory state of the law among Christians. Repeated representations were made by Christian representatives about the desirability of enacting a law of succession. The necessity for legislation has therefore long been felt.

"The usages of the various sections of the Christian community do not agree in all respects. Separate legislation for the various sections of Christains is neither desirable nor practicable and is likely to lead to much litigation and trouble. It is therefore thought necessary to enact a common law for all the various sections of Indian Christians.

"There are some Christians in the State who are Marumakkathayees. These are excluded from the operation of this Bill.

"The Bill is drafted on the lines of the Indian Succession Act with such alterations as are considered necessary in the interests of the various sections of Indian Christians in Travancore.

"The various alterations and the necessity therefor are stated at length in the Report of the Christian Committee and it is therefore unnecessary to detail them here." *S. O. & R., T. G. G. dated 15-4-1913.*

The report of the Christian Committee above referred to was published in *T. G. G. dated 27-8-1912.*

For legislative Proceedings *See T. G. G. dated 4-4-1913; 17-6-1913; 6-7-1915, 1-2-1916 and 23-1-1917.*

The Act was published in *T. G. G. dated 26-12-1916.*

2. Except as provided in this Act, or by any other law for the time being in force, the rules herein contained shall constitute the law of Travancore applicable to all cases of intestate succession among the members of the Indian Christian community.

This Act, to constitute the law of Travancore in all cases of intestate succession among Indian Christians.

3. The provisions of this Act shall not apply to intestate succession to the property of such members of the Indian Christian community as follow the Marumakkavazhi system of inheritance: nor shall they apply to any intestacy occurring before the date on which this Act comes into force.

Succession to property of Marumakkathayam Christians and certain intestacies not affected.

4. Our Government shall, from time to time, have power, by an order, either retrospectively from the passing of this Act or prospectively.—

(1) to exempt from the operation of the whole or any part of this Act any individual or the memebers of any sect, race or tribe, to whom Our Government may consider it undesirable or inexpedient to apply the provisions of this Act or part of this Act mentioned in the order ;

Power of Government to exempt from the operation of the whole or any part of this Act, any individual or the members of any sect, race or tribe.

(2) to extend the operation of the whole or any part of this Act to any individual or the members of any sect, race or tribe, to whom Our Government may consider it desirable or expedient to apply the provisions of this Act or the part of this Act mentioned in the order ; and

Power of Government to extend the operation of the whole or any part of this Act to any individual or the members of any sect, race or tribe.

(3) to revoke such order or orders, but not so that the revocation shall have any retrospective effect.

Power to revoke any such order or orders of exemption or extension.

All orders made under this Section shall be published in the Government Gazette.

5. In this Act, unless there be something repugnant in the subject or context,— Interpretation Clause.

"Will" means the legal declaration of the intentions of the testator with respect to his property, which he desires to be carried into effect after his death, and includes a codicil: "Will."

"Streedhanom" means and includes any money or ornaments, or, in lieu of money or ornaments, any property, movable or immovable, given or promised to be given to a female or, on her behalf, to her husband or to his parent or guardian by her father or mother, or after the death of either or both of them, by any one who claims under such father or mother, in satisfaction of her claim against the estate of the father or mother: Streedhanom."

The terms "Son", "Daughter", "Brother", "Sister", "Lineal descendant" or any other word expressing relationship must be understood only as denoting a legitimate relative. "Son" "Daughter" and other words expressing relationship.

When owing to any physical defect or deformity it is not possible to ascertain the sex of any of the heirs to an intestate, such heir shall, for the purposes of this Act, be treated as a female.

6. No person shall, by marriage, acquire any interest in the property of the person whom he or she marries, nor become incapable of doing any act in respect of his or her own property which he or she could have done, if unmarried. Interests and powers not acquired nor lost by marriage.

7. Succession to the immovable property situated in Travancore and belonging to a member of the Indian Christian community is regulated by this Act, wherever he may have had his domicile at the time of his death. Law regulating succession to deceased person's immovable and movable property.

Succession to the movable property of a person deceased is regulated by the law of the country in which he had his domicile at the time of his death.

"Kindred" or "Consanguinity."

8. "Kindred" or "Consanguinity" is the connection or relation of persons descended from the same stock or common ancestor.

"Lineal consanguinity."

9. "Lineal consanguinity" is that which subsists between two persons, one of whom is descended in a direct line from the other, as between a man and his father, grandfather and great-grandfather, and so upwards in the direct ascending line, or between a man, his son, grandson, great-grandson and so downwards in the direct descending line.

Every generation constitutes a degree, either ascending or descending.

A man's father is related to him in the first degree, and so likewise is his son; his grand-father and grandson, in the second degree, his great-grandfather and great-grandson, in the third.

"Collateral consanguinity."

10. "Collateral consanguinity" is that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other.

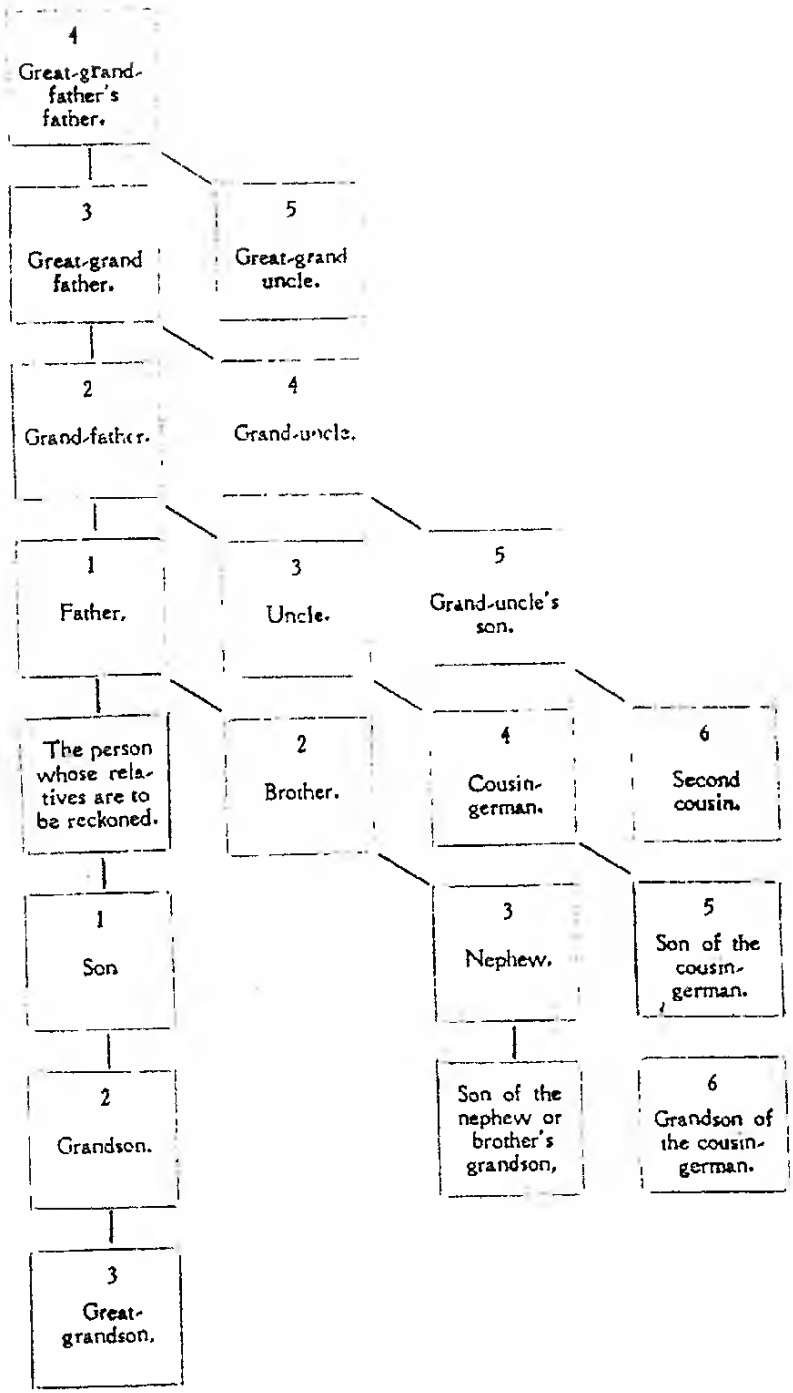
For the purpose of ascetaining in what degree of kindred any collateral relative stands to a person deceased, the reckoning shall be made upwards from the person deceased to the common stock or ancestor, and then downwards to the collateral relative allowing a degree for each person both ascending and descending.

Mode of computing degrees of kindred.

11. In the annexed Table of kindred, the degrees are computed as far as the sixth and are marked by numeral figures. The person whose relatives are to be reckoned and his cousin-german or first cousin are as shown in the Table, related in the fourth degree, there being one degree of ascent to the father and another to the common ancestor, the grandfather, and from him one of descent to his uncle and another to the cousin-german, making in all four degrees.

A grand-uncle's son and a great-grand-uncle are of the same degree, being each five degrees removed.

TABLE OF CONSANGUINITY



12. For the purpose of succession, there is no distinction between those who have been or are actually born at the time of the deceased person's death, and those who, at the time of his death, were only conceived but who have subsequently been born alive. Nor is there, except when otherwise expressly provided for, any distinction between those who are related to him by the full-blood and those who are related to him by the half-blood.

Persons held for the purpose of succession to be similarly related to the deceased.

13. For the purpose of succession, there is no distinction between self-acquired property and ancestral property, or between the property of a male and that of a female.

No distinction between self-acquisition and ancestral property or between man's property and woman's property.

14. A man is considered to die intestate in respect of all property of which he has not made a testamentary disposition which is capable of taking effect.

As to what property deceased considered to have died intestate.

Illustrations.

(*a*) A has left no Will. He has died intestate in respect of the whole of his property.

(*b*) A has left a Will whereby he has appointed B his executor; but the Will contains no other provisions. A has died intestate in respect of the distribution of his property.

(*c*) A has bequeathed his whole property for an illegal purpose. A has died intestate in respect of the distribution of his property.

(*d*) A has bequeathed Rs. 1,000 to B and Rs. 1,000 to the eldest son of C and has made no other bequest: and has died leaving the sum of Rs. 2,000 and no other property. C died before A without having ever had a son. A has died intestate in respect of the distribution of Rs. 1,000.

15. Such property devolves upon the wife or husband or upon those who are of the kindred of the deceased in the order and according to the rules herein prescribed.

Devolution of such property.

16. Where the intestate has left a widow, if he has also left lineal descendants, a share equal to that of a son shall be allotted to her :

Widow co existing with the deceased's children.

Provided, however, when the lineal descendants of the deceased consist only of his daughters or the descendants of any deceased daughter or daughters, the widow's share shall be equal to that of a daughter.

17. If the intestate has left no lineal descendants, but has left his father or mother, or paternal grandfather or any lineal descendants of his father or such grandfather, one-half of the intestate's property shall be allotted to his widow.

Widow co existing with the intestate's father or mother or paternal grandfather or any lineal descendants of his father or such grandfather.

18. If the intestate has left none of the kindred referred to in Sections 16 and 17, his widow shall be entitled to the whole of his property.

Other cases.

19. The husband surviving his wife has the same rights in respect of her property if she dies intestate, as the widow has in respect of her husband's property if he dies intestate

Right of widower and widow.

20. When the intestate has left his mother, if he has also left any lineal descendants or father, the mother shall not be entitled to any share in the deceased's property.

Mother with the intestate's descendants or his father.

21. When the intestate has left neither lineal descendants, nor father, but has left lineal descendants of the father, a share equal to that of a brother of the intestate shall be allotted to his mother :

Mother co-existing with intestate's father's descendants.

Provided, however, that when the lineal descendants of the intestate's father consist only of daughters or the lineal descendants of a deceased daughter or daughters, the mother's share shall be equal to that of a daughter.

22. When the intestate has left none of the kindred referred to in Sections 20 and 21, but has left his paternal grandfather, or any lineal descendants of such grandfather, one-half of the intestate's property shall be allotted to his mother.

Mother co-existing with intestate's grandfather or his descendants.

23. When the intestate has left none of the kindred mentioned in Sections 20, 21, and 22, his entire estate, or if he has left a widow, the residue after deducting her share shall belong to his mother.

Mother co-existing with more distant kindred.

24. Over any immovable property to which a widow or mother becomes entitled under Sections 16, 17, 21 and 22, she will have only a life-interest terminable at death or re-marriage.

Widow or mother has only a life interest terminable at death or re-marriage over any immovable property to which she may become entitled under Sections 16, 17, 21 and 22.

On the determination of the limited estate of the widow or the mother, the property over which she has such limited interest shall be distributed among the heirs of the original intestate, as if the holder of the life-estate had not survived the intestate.

25. When a person dies intestate his next of kin in the order set forth below shall be entitled to succeed to the residue, if any, of his property that may be left after deducting the widow's share, if he has left a widow, and also the mother's share, if he has left a mother, under circumstances which will, according to Sections 21 to 23, entitle her to any share. The next of kin mentioned in the first group shall always be preferred to those standing second, the second to the third, and so on, in succession.

Order of succession.

Group (1). Sons and daughters and the lineal descendants of such sons or daughters as shall have predeceased the intestate.

Group (2). Father.

Group (3). Brothers and sisters (whether of the full-blood or by the same father only) and the lineal descendants of such of them as shall have predeceased the intestate.

Group (4). Paternal grandfather.

Group (5). Paternal grandmother and paternal grandfather's children including such of the latter as shall have predeceased the intestate, leaving lineal descendants.

Group (6). Brothers and sisters of the half-blood on the mother's side and the lineal descendants of such of them as shall have died in the intestate's life-time.

Group (7). Maternal grandfather.

Group (8) Maternal grandmother and the maternal grandfather's children including the lineal descendants of such of them as shall have died in the intestate's life-time.

The lineal descendants of a deceased heir are allowed to represent such heir.

26. If a son, or a daughter, or a brother, or a sister, or a nephew, or a niece, or an uncle, or an aunt, or a first cousin, of an intestate, who, if alive at the time of the intestate's death, would have been an heir, shall have died in his life-time, the lineal descendant or descendants of such heir, shall solely or jointly take the share which they would have taken if living at the intestate's death and in such manner as if such deceased heir had died immediately after the intestate's death.

Males to take equally among themsevles and females to take equally among themselves.

27. Subject to the provisions of Sections 26, the male heirs mentioned in groups (1), (3), (5), (6) and (8) in Section 25, shall, among themselves, have equal shares, and the female heirs mentioned in the said groups shall, among themselves have equal shares.

The shares of sons in group (1) of Section 25.

28. Without prejudice to the provisions of Section 16, the male heirs mentioned in group (1) of Section 25 shall be entitled to have the whole of the intestate's property divided equally among themselves, subject to the claims of the daughter for Streedhanom.

Daughter's Streedhanom and its value.

The Streedhanom due to a daughter shall be fixed at one-fourth the value of the share of a a son, or Rs. 5,000 whichever is less:

Female heirs who were paid Streedhanom to be ordinarily left out of consideration.

Provided that any female heir of an intestate, to whom Streedhanom was paid or promised by the intestate, or in the intestate's lifetime either by such intestate's wife or husband, or after the death of such wife or husband by her or his heirs, shall not be entitled to have any further claim in the property of the intestate when any of her brothers (whether of the full-blood or of the half-blood by the same father) or the lineal descendants of any such deceased brother shall survive the intestate.

Any Streedhanom promised, but not paid by the intestate, shall be a charge upon his propety.

Illustrations.

(1) Joseph is the son, and Sarah the daughter, of John and Mary. Sarah is given Streedhanom by John. Sarah will not have any more claim upon John's estate after his death.

(2) Joseph is the son, and Sarah the daughter, of John and Mary. Sarah is given Streedhanom by Mary in John's lifetime. Sarah has no claim upon John's property after his death.

(3) Joseph is the son, and Sarah the daughter, of John and Mary. After Mary's death but in John's lifetime Streedhanom is given to Sarah by Mary's heirs. Sarah has no claim upon John's property after his death.

(4) Joseph is the son, and Sarah the daughter, of John and Mary. Sarah is given Streedhanom by Mary. Sarah will not have any more claim upon Mary's estate after Mary's death.

(5) Joseph is the son, and Sarah the daughter, of John and Mary. Sarah is given Streedhanom by John in Mary's lifetime. Sarah has no claim upon Mary's property after Mary's death.

(6) Joseph is the son, and Sarah the daughter, of John and Mary. After John's death but in Mary's lifetime Streedhanom is given to Sarah by John's heirs. Sarah has no claim upon Mary's property after Mary's death.

29. The female heirs or the descendants of the deceased female heirs mentioned in groups (3), (5), (6) and (8) in Section 25, will be entitled to share in the intestate's property only in the absence of the male heirs mentioned in the respective groups or of the lineal descendants, if any, of such male heirs who may have predeceased the intestate

Certain other female heirs to take only in the absence of male heirs in the respective groups.

30. Sections 24, 28 and 29 shall not be applicable to certain classes of the Roman Catholic Christians of the Latin Rite and also to certain Protestant Christians living in Karunagapally, Quilon, Chirayinkil, Trivandrum, Neyyattinkara, and other Taluks, according to the customary usage among whom the male and female heirs of an intestate share equally in the property of the intestate.

Sections 24, 28 and 29 not applicable to certain classes of Roman Catholic and Protestant Christians.

So far as those Christians are concerned, nothing in the aforesaid Sections shall be deemed to affect the said custom obtaining among them.

31. Where the deceased has left neither widow, nor mother, nor any of the kindred enumerated in Section 25, his property shall be divided equally among those of his relatives who are in the nearest degree of kindred to him

Mode of distribution in the absence of the widow, mother or the kindred enumerated in Section 25.

32. If the deceased has left neither a widow nor any kindred his property shall go to the Sirkar.

Escheat.

33. Where a distributive share in the property of a person who has died intestate shall be claimed by a child or any descendant of a child of such person, no money or other property which the intestate may, during his lifetime, have paid, given, or

Children's advancement not brought into hotch-pot.

settled, to or for the advancement of the child by whom or by whose descendant the claim is made, shall be taken into account in estimating such distributive share :

Provided, however, that, subject to the provisions of para 3 of Section 28, any Streedhanom paid to a female shall be taken into account in estimating her share, but not so as to compel her to refund anything already received as Streedhanom.